THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.17693 OF 2006

ORDER:

This writ petition is filed questioning the proceedings of the respondent-Deputy Transport Commissioner and Secretary, Regional Transport Authority, Vijayawada, dated 1.2.2006, rejecting the request of the petitioner for issuance of clearance certificate in respect of the goods vehicle bearing Registration No.PY/01Q-9955.

The petitioner claims that he purchased the vehicle in question on 11.6.2001 under a sale agreement executed by one V.S.S.V. Prasad. The registered owner, along with the vehicle, had handed over all the original documents to him, and since then he has been operating the said vehicle. While so, on 25.7.2003 the Motor Vehicles Inspector, Kavali, seized the vehicle in question, while it was taking a load from Pondichery to Bihar State on the allegation that the National Permit did not cover the States of Pondichery and Bihar and that the vehicle was authorized to ply only in the States of Andhra Pradesh, Karnataka, Orissa and West Bengal. Though the vehicle, as on that date, admittedly, stood in the name of V.S.S.V. Prasad, the petitioner herein, who claims to have purchased the same under a sale agreement, filed W.P.No.17158 of 2003 seeking release of the vehicle, and in compliance with the orders of this Court dated 29.8.2003, the vehicle was released on deposit of Rs.5,000/- by the petitioner. The petitioner had also furnished an undertaking that he will not alienate the vehicle till the final orders are passed by the respondent.

Even according to the petitioner, the enquiry initiated by the authority under the Motor Vehicles Act, 1988, has not yet been concluded. In the meanwhile, the petitioner made an application dated 6.1.2006 requesting the respondent to issue a clearance certificate so as to enable him to dispose of the vehicle to a third party. In response, the respondent under the impugned memo dated 1.2.2006 informed the petitioner that since Cr.No.192/2003 on the file of Sub-Inspector of

Police, Law & Order, Suryaraopet Police Station, Vijayawada, is pending, no clearance certificate, in respect of the vehicle in question, could be issued. Aggrieved by the same, the present writ petition is filed.

I have heard the learned counsel for both the parties and perused the material on record.

In the counter-affidavit filed by the respondent, it is stated that as per the office record the vehicle in question stands in the name of V.S.S.V. Prasad, who never applied for transfer of ownership in favour of the petitioner. It is further stated that on the basis of the charge sheet filed by Sub-Inspector of Police, Suryaraopet, Vijayawada, a criminal case has been registered in C.C.No.735 of 2005, which is pending on the file of the Court of the III Additional Metropolitan Magistrate, Vijayawada, which relates to an offence of fake permit in the name of V.S.S.V. Prasad, involving the vehicle in question. In view of the pendency of the said criminal case, the impugned memo was issued rejecting the request of the petitioner for issuing the clearance certificate.

As noted above, the vehicle in question was seized on 25.7.2003 on the allegation that the same was plying with bogus permit. Though the petitioner was given interim custody of the vehicle pursuant to the order of this Court in W.P.No.17158 of 2003, admittedly, the enquiry under the provisions of the Motor Vehicles Act, 1988 is still pending.

That apart, on 8.7.2003, the Inspector of Police, Law & Order, South Circle, Vijayawada, on credible information that the Agents of Regional Transport Authority, Vijayawada, were indulging in issuing fake National Permits and Driving Licenses by forging the signatures of the RTA authorities, surprised the RTA Office, Vijayawada and questioned the persons found in the premises. The material seized from them included fake RTA stamps, fake RTA certificates, stamp pads etc., apart from one fake National Permit in the name of V.S.S.V. Prasad, relating to vehicle No. PY/01Q-9955 dated 13.6.2003 were seized. On the basis of the confessional statements made by the said

persons, some other persons were examined and certain other material was also seized and Crime No.192/2003 was registered for the offence punishable under Section 420 of the Indian Penal Code. Subsequently, having completed the investigation, the Sub-Inspector of Police filed charge sheet in the Court of the III Additional Metropolitan Magistrate, Vijayawada on 12.8.2005 against nine accused for the offence punishable under Sections 420, 468, 259 of the Indian Penal Code. The material/documents seized from the accused were submitted to the Court, which included Form 47 authorization No. AP 016/1395/NPPUC/2003 dated 13.6.2003 in respect of the vehicle No. PY/01Q-9955.

In the charge sheet it was alleged that all the accused conspired and connived with each other to provide fake Driving Licenses, temporary permits and other RTA certificates by using forged signatures and fake rubber stamps. As can be seen from the counter-affidavit, C.C.No.735 of 2005 is still at the stage of trial.

The learned counsel for the petitioner vehemently contended that since neither the vendor of the petitioner, who is the registered owner, nor the vehicle in question, is involved in the above criminal case, the action of the respondent in rejecting clearance certificate under the impugned memo is arbitrary and illegal. The learned counsel further contended that since the permit/ authorization certificate possessed by the petitioner was issued on 13.6.2003, and there was no allegation that the said document was fake or forged, the mere fact that the alleged forged document recovered from the accused in Cr.No.192/2003 stands in the name of the petitioner's vendor is immaterial.

The specific averment in the counter-affidavit that at the time of check of the vehicle in question on 25.7.2003, the permit issued by the RTA, Vijayawada, bearing No. AP 016/1395/NPPUC/2003, valid from 13.6.2003 to 12.6.2006 was held by its occupants has not been disputed by the petitioner. It is also not in dispute that a permit bearing the same number in respect of the same vehicle standing in the name

of the petitioner's vendor was recovered from A1 in Crime No.192/2003 on 8.7.2003 by the Sub-Inspector of Police, Suryaraopet Police Station. On the basis of the charge sheet filed in the said crime, criminal proceedings are admittedly pending before the learned III Additional Metropolitan Magistrate, Vijayawada. Therefore, it cannot be presumed at this stage, that either the petitioner's vendor or the petitioner much less the vehicle in question has nothing to do with the alleged offence. Hence, I do not find any substance in the contention of the learned counsel for the petitioner that pendency of C.C.No.735 of 2005 is not a relevant factor for declining the clearance sought by the petitioner. That apart, the seizure of the vehicle effected on 25.7.2003, was also on the ground that the National Permit produced was not valid. The enquiry into the said allegation is also pending before the competent authority under the Motor Vehicles Act, 1988. While obtaining interim custody of the vehicle, in pursuance of the order of this Court in W.P.No.17158 of 2003, the petitioner gave an undertaking that he would not alienate or transfer the vehicle pending the enquiry.

It is also relevant to note that, as on today, the vehicle still stands in the name of V.S.S.P. Prasad, from whom the petitioner claims to have purchased. Nothing has been placed before this Court to show that the petitioner got the vehicle transferred in his name by following the procedure prescribed under law. Hence, the petitioner cannot claim any legal right to seek a Mandamus compelling the respondent to issue clearance certificate as sought by him.

Viewed from any angle, the action of the respondent in rejecting the request of the petitioner for grant of clearance for the purpose of transfer of the vehicle in question in favour of a third party cannot be found fault with.

Accordingly, the writ petition is dismissed. No costs.

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(G. ROHINI, J.)

15th November, 2006.
Issue CC in two days.

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THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.17693 OF 2006

15th November, 2006.

K. Venkateswara Rao. .. Petitioner.

And

The Deputy Transport Commissioner
and Secretary, Regional Transport Authority,
Vijayawada. .. Respondent.